



GOONS STILL BIG THREAT Feds requesting no bail in case of hockey scammers

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Body

IN EARLY 2011 a Long Island man received an angry voicemail from Phil Kenner, the Arizona man arrested Wednesday for allegedly stealing at least \$15 million from a group of NHL players in a decade-long fraud. Amid vulgar oaths, Kenner made reference to the man's 8-year-old son.

"Bring your son out to Arizona," Kenner said, according to court papers, "so he can see what it looks like when his dad gets an ass beating."

The recipient of the nasty voicemail was a relative of two victims of the scam Kenner is alleged to have perpetrated.

At the time he sent it, Kenner - who called himself a "lifestyle coach" - was desperate to prop up a massive, complex plot that a **federal indictment** says he orchestrated in cahoots with convicted cocaine dealer Tommy Constantine.

A recording of the voicemail is now in possession of the feds, who are requesting that Kenner and Constantine be held without bail following their arrests. That may be just a small sample of the behavior Kenner and Constantine exhibited as a sometimes wild three-year criminal investigation zeroed in on them.

"This recording demonstrates Kenner's capacity and propensity for threatening and intimidating witnesses," prosecutors wrote in a letter to a federal judge Wednesday, adding that Kenner and Constantine "both pose a substantial risk of flight."

Two of those witnesses and alleged victims - former No. 1 NHL pick Bryan Berard and former NYPD and Long Island cop John Kaiser - have told the Daily News they were besieged with anonymous threats and harassment during the long investigation.

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Kaiser says Kenner told Kaiser's brother that he would "take care of his brother," and that Kenner tracked Kaiser's travel to Mexico. "He always knew what plane I was on," Kaiser says.

Berard lived in fear that he would be framed for a crime, and was alerted by a law enforcement friend in Rhode Island late this summer that someone had called in a false tip on him, perhaps, he thought, to disrupt his cooperation.

Developer Ken Jowdy, with whom Kenner waged a long legal battle over control of a new golf course in Cabo San Lucas called Diamante, told the Daily News in a series of interviews over the last four years that he had been threatened and victimized by Kenner, fearing for his life as he worked to turn Diamante into one of the most acclaimed new courses in the world.

The two indicted men might also pose a threat to each other. Kenner sued Constantine - also known as Tommy Homovitis - in March, challenging Constantine's bankruptcy filing and claiming that Constantine owed him shares in a bank-card company called Eufora LLC and a now non-existent airline called SetJets. He also accused Constantine of frauds against the U.S. Bankruptcy Court.

Documents in that case include screengrabs of smartphone texts messages in which the two men frankly describe everything from a Vegas escort to a Falcon jet amid the fluctuations of their numerous bank accounts. But Kenner also includes a list of embarrassing text messages sent to him by Constantine that paints his former partner as penniless and pathetic.

"Yeah I am so broke I couldn't get laid in a Russian whorehouse on Rubel night," Constantine wrote in one text.

"Honestly right now I just need to be able to eat and buy gas," he said in another, before going on to say in vulgar terms that he needed \$5,000 within 24 hours and \$75,000 in 72 hours or "it's all over."

Following their arrests on Wednesday near their homes in Scottsdale, detention hearings were scheduled for Kenner and Constantine next week in the federal courthouse in Phoenix, but according to a source familiar with the case, Constantine's lawyer, New York-based Ed Little, was expected to ask the judge for an expedited hearing for his client, possibly as early as Friday.

The government was expected to counter with a claim that Constantine, who filed for bankruptcy protection on March 11, had violated laws by not disclosing that he had retained Little prior to the arrest, and should not be awarded an expedited hearing in the financial fraud case.

It was unclear if Kenner had secured an attorney other than the public defender who represented him in court Wednesday.

As the Daily News first reported Wednesday, the two men were arrested near Phoenix, but will face arraignment in the Eastern District of New York. And if the duo of one-time high-flying playboys can't get free on bail in the next few days, they will be transported from Phoenix to Long Island in federal custody.

Meanwhile, the witnesses and alleged victims in the case continue to look nervously over their shoulders as the case begins its journey through the justice system.

Kaiser, who had begun working with Jowdy in Cabo last year, describes a break-in at his apartment there in which three assailants came after him with a pipe, a knife and a bat. He isn't sure who sent them, but he

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managed to successfully fight them off - tossing one over a balcony in the dark before a security force arrived and the assailants fled.

"Sending three guys to kill me in the middle of the night," says Kaiser, a former New York cop. "They learned the hard way that wasn't going to be an easy task."

Graphic

Witnesses and victims like ex-NHLer Bryan Berard (top) are still looking over their shoulders even as Phil Kenner (inset) and partner Tommy Constantine sit behind bars after their arrest for swindling NHLers and local cops of \$15 million. PhotoS by ALEX RUDD & FILE PHOTO

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